



**CITY OF MARLBOROUGH  
OFFICE OF CITY CLERK  
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**OCTOBER 17, 2016**

Regular meeting of the City Council held on Monday, OCTOBER 17, 2016 at 8:00 PM in City Council Chambers, City Hall. City Councilors Present: Clancy, Juaire, Oram, Ossing, Robey, Delano, Doucette, Elder, Tunnera, Irish and Landers. Meeting adjourned at 9:35 PM.

Council Delano recognized the City Council who wore pink to bring awareness to Breast Cancer. Councilor Robey recognized Domestic Violence Protection and Awareness Month and also noted that it is Fire Prevention month.

**ORDERED:** That the Minutes of the City Council meeting OCTOBER 3, 2016, **FILE**; adopted.

**ORDERED:** That the PUBLIC HEARING On the Application to further modify Special Permit from Crabtree Lake Williams LLC for Overlook at Lake Williams, Lakeside Ave., to accommodate changes to the design and configuration of the emergency access road and perimeter fencing in the vicinity of Bond St., likely affecting Conditions #20, #22, #23, #36, #38 and #39, Order No. 16-1006683, X16-1006636B, X08/09-1002051E, all were heard who wish to be heard, hearing recessed at 8:12 PM.

**Councilors Present: Clancy, Delano, Doucette, Elder, Tunnera, Irish, Landers, Juaire, Oram, Ossing, & Robey.**

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Executive Office of Public Safety State 911 Department EMD Grant from the Commonwealth of MA in the amount of \$59,686.00 to offset personnel costs in the Public Safety Dispatch center for training overtime and to fund overtime costs associated with meeting the State mandated emergency dispatch protocol; adopted.

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Digital Federal Credit Union Gift in the amount of \$7,500.00 to fund information technology upgrades for the Fire Department; adopted.

**ORDERED:** Under authority of MGL Chapter 44, Section 53A, the City Council hereby **APPROVES** the Digital Federal Credit Union Gift in the amount of \$7,500.00 to supplement various Police Department programs, units including RAD self-defense classes and Explorer program for the youth; adopted.

ORDERED: That pursuant to Section 77C of Chapter 60 of the General Laws of Massachusetts, the City does hereby accept title, by deed in lieu of foreclosure, from Antoinette Dufault, also known as Sister Mary Francis, of the Sisters of the Benedictine Center, 254 Still River Road, Still River MA, to a certain parcel of land described herein as follows:

That certain parcel known and numbered on the Assessors' Map of the City of Marlborough as Map 55 Parcel 210B, being approximately 43,966 S.F., and located on Russell Street, refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE**; adopted.

ORDERED: That the Communication from the Municipal Aggregation Committee regarding **APPROVAL** of a six month fixed price contract with TransCanada, **FILE**; adopted.

ORDERED: Be it ordained by the City Council of the City of Marlborough that the Code of the City of Marlborough, as most recently amended, be further amended as follows:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING RECEIVED FROM THE MARLBOROUGH ZONING BOARD OF APPEALS A SUBMISSION PROPOSING CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting sub-subsection (3) in its entirety and inserting in place thereof the following:-- An appeal from a decision of the Building Commissioner and a petition for a variance shall be filed with the City Clerk, who shall forthwith transmit it to the Board of Appeals. The Board shall hold a public hearing within 65 days of the receipt of the appeal or petition from the City Clerk and shall render a decision within 100 days from the date of filing.
2. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended in subsection C, entitled "Procedure," by deleting the preamble in sub-subsection (4) in its entirety and inserting in place thereof the following:-- If the Board of Appeals shall fail to act within 100 days of the filing of the appeal or petition, as the case may be, then the appeal or petition shall be deemed approved subject to the following requirements:

Refer to **LEGISLATIVE AND LEGAL AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, NOVEMBER 14, 2016**; adopted.

ORDERED: That the City Council of the City of Marlborough confirms that Order No. 16-1006467B by which the City Code of the City of Marlborough, as amended, was further amended to increase the stipend positions of election wardens, election clerks, election inspectors/checkers and constables at polls, included a scrivener's error, being the effective date of "July 1, 2017," and that the correct effective date is July 1, 2016, **APPROVED**; adopted.

ORDERED: That the Communication from City Clerk, Lisa Thomas re: November 8, 2016 State Election Information, **FILE**; adopted.

ORDERED: That the portion of the public way identified on a plan entitled, "Plan of Land in Marlborough, Massachusetts, to be licensed to Richard F. and Jane A. Sullivan, 56 Emmett Street for parking, Prepared by: City of Marlborough Department of Public Works, Engineering Division (BWT), Scale: 1" = 20', January 2002," which is attached hereto and incorporated herein by reference, and containing 316.41± square feet, which Order No. 03-9919A declared available for disposition for the sole purpose of parking by the owners of 56 Emmett Street, is herewith approved as a license for the current owners of 56 Emmett Street, Kenneth D. and Kristin L. Regan, Jr., based, however, upon the following conditions:

1. The license shall be on a temporary five-year basis, requiring further City Council approval five years from the date of adoption of this order;
2. The licensees shall utilize the licensed premises for the parking of the vehicle(s) in their household, and they shall not permit the parking of their vehicle(s) on the public way so as to impede snow removal operations conducted by or on behalf of the City of Marlborough;
3. The licensees' use of the portion of the public way approved under this license, each year it is in effect, shall coincide with the period of the City of Marlborough's winter parking ban for that year, and the licensed portion of the public way shall otherwise be available to other neighbors and abutters for parking purposes at other times of the year, especially during the summer months; and
4. The licensees shall indemnify and hold harmless the City of Marlborough from any liability arising as a result of their use of the licensed portion of the public way for parking purposes.

**APPROVED**; adopted.

ORDERED: That the Communication from Attorney Twohig, on behalf of Hines Global REIT Marlborough Campus I LLC, to extend sewer connection permit for Campus at Marlborough, 100 Campus Dr., refer to **PUBLIC SERVICES COMMITTEE**; adopted.

ORDERED: That the design details and rendering of the Hyatt hotel substantially conform in all material respects with the details previously provided to the Council within the Master Concept Plan and Development Agreement. Accordingly, Walker Realty LLC kindly requests that the City Council acknowledge that the requirements of Paragraph 8 of the Development agreement have been met as it pertains to the Hyatt hotel and allow the Building Commissioner to issue the requisite building permit for the commencement of the Hyatt, **APPROVED**; adopted.

**President Clancy orally reported approval via a hand vote of 10-1. Councilor Juairé opposed.**

ORDERED: That the Communication from Walker Realty LLC re: Architectural Elevations for the proposed buildings to be located at Apex Center-160 Apex Dr., 142 Apex Dr., 115 Apex Dr., 105 Apex Dr., 90 Apex Dr., 58 Apex Dr., 43 Apex Dr., 36 Apex Dr., 22 Apex Dr., 21 Apex Dr., and 11 Apex Dr., conform to the design details and renderings of these buildings substantially in all material respects with details previously provided to Council within the Master Concept Plan and Development Agreement, refer to **URBAN AFFAIRS COMMITTEE**; adopted.

**President Clancy orally reported approval via a hand vote of 10-1. Councilor Tunnera opposed.**

ORDERED: That the Communication from Michael & Karen Buckley re: Bolton St. Gas Station, refer to **OPERATIONS & OVERSIGHT COMMITTEE, FIRE DEPARTMENT AND LEGAL DEPARTMENT**; adopted.

A Petition signed by several residents who live near the underground tanks in Marlborough was entered into the record.

ORDERED: That Minutes, Community Development Authority, August 25, 2016, **FILE**; adopted.

ORDERED: That Minutes, School Committee, August 30 & September 13, 2016, **FILE**; adopted.

ORDERED: Minutes, Planning Board, September 26, 2016, **FILE**; adopted.

ORDERED: Minutes, School Building Committee, August 9, 2016, **FILE**; adopted.

ORDERED: Minutes, Conservation Commission, September 15, 2016, **FILE**; adopted.

ORDERED: That the following CLAIMS, refer to the **LEGAL DEPARTMENT**; adopted.

- a. Ana Wydom, 51 Briarwood Ln., #9, pothole or other road defect.
- b. Robert Raynor, 20 Hampton Ave., #309, Northhampton, MA 01060, other property damage and/or personal injury.
- c. Doug Pizzi, 354 Stow Rd, other property damage and/or personal injury.

Reports of Committees:

Meeting Name: City Council Wireless Communications Committee

Date: October 11, 2016

Time: 7:00 PM

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

Convened: 7:07 PM – Adjourned: 7:42 PM

Present: Chairman Oram; Wireless Communications Committee Members Councilors Doucette and Juare; and Councilor Robey

Also Present: **Donald V. Rider, Jr. (City Solicitor, City of Marlborough); Edward Pare (Attorney, Brown Rudnick)**

**Order No. 16-1006637A: Application for Wireless Special Permit from New Cingular Wireless PCS, LLC-AT&T Mobility to remove Condition 7 of Special Permit, Order No. 11-1003004C which requires that AT&T fly an American Flag from the stealth antenna canister on the water tower, 175 Maple Street.** The Wireless Communications Committee met with Edward Pare, an attorney from Brown Rudnick representing New Cingular Wireless PCS, LLC, AT&T in their request to remove Condition 7 of the Special Permit, Order No. 11-1003004C, which required AT&T fly an American Flag from the stealth antenna canister on the water tower located at 175 Maple Street. AT&T had outstanding debt to their Open Space obligations which they were in the process of making payments and setting up automatic payments going forward to be made January 2<sup>nd</sup> of each year. The committee agreed AT&T could remove the flag and associated mechanical lanyard device as well as the gold ball finial at the top of the antenna canister and make a one-time contribution of \$5,000 to the City of Marlborough's flag account as an appropriate means to honor the American flag in lieu of flying one at the site. **Motion made by Councilor Juaire, seconded by Councilor Doucette, to recommend approval as amended with the condition that all outstanding fees be paid in full prior to City Council's approval of the special permit. The motion carried 3-0.**

**Motion made by Councilor Juaire, seconded by Councilor Doucette, to adjourn. The motion carried 3-0. The meeting adjourned at 7:42 PM.**

**Motion made by Councilor Oram at the October 17, 2016 City Council meeting to refer to the City Solicitor to place in proper legal form for the next agenda which is November 14, 2016.**

*Reported by: Chairman Oram  
October 17, 2016*

**Suspension of the Rules requested – granted**

ORDERED: That the Application for Wireless Special Permit from New Cingular Wireless PCS, LLC-AT & T Mobility to remove Condition 7 of Special Permit, Order No. 11-1003004C which requires that AT & T fly an American Flag from the stealth antenna canister on the water tower, 175 Maple St. Order No. 16-1006637A, refer to City Solicitor to place in proper legal form for the next City Council meeting of November 14, 2016; adopted.

**Suspension of the Rules requested – granted**

ORDERED: That the Communication from Attorney Ericksen on behalf of Walker Realty LLC, re: request to extend time limitations on Proposed Car Wash, specifically to allow for a use of a car wash at Apex Center in the Hospitality and Recreation Mixed Use Overlay District until on or before December 26, 2016, Order No. 16-1006634B, **APPROVED**; adopted.

**Suspension of the Rules requested – granted**

ORDERED: That Communication from Attorney Ericksen on behalf of Walker Realty LLC, re: request to extend time limitations on Proposed Car Wash, specifically to allow for a car wash in Zone B of Water Supply Protection District, until on or before December 26, 2016, Order No. 16-1006635A **APPROVED**; adopted.

ORDERED:

**Resolution**  
**Citgo Fuel Oil Spill**  
**121 Bolton Street, Marlborough, Massachusetts**

WHEREAS, the Citgo fuel oil spill event is over four years old; and,  
WHEREAS, the fuel oil spill has impacted the quality of life of Marlborough residents; and,  
WHEREAS, the fuel oil spill has impacted the environment of the residents adjacent to the spill and the City of Marlborough; and,  
WHEREAS, the fuel oil spill has impacted the assessed value of the land adjacent to the spill. This impacts the residents' ability to sell their property as well as the City of Marlborough's ability to collect property taxes at the full assessed value; and,  
WHEREAS, the Massachusetts Legislature has before it the following bills to provide relief to the residents and the City of Marlborough:

- **House Bill 684 - \$10 million in liability in third reading (May 2016)**
- **House Bill 685 – damages to impacted residents paid from 21J – in Ways and Means**
- **House Bill 686 – financial reimbursement to impacted owners of surrounding properties – in Ways and Means**

NOW, THEREFORE BE IT RESOLVED that the Marlborough City Council respectfully calls upon the Massachusetts Legislature to promptly enact House Bills 684, 685 and 686.

AND FURTHER, the Honorable Senator Eldridge, Honorable Representative Gregoire and Honorable Representative Gentile are requested to provide the Marlborough City Council with a monthly report describing steps taken to ensure House Bills 684, 685 and 686 are adopted.

**APPROVED;** adopted.

**President Clancy orally reported approval via a hand vote of 11-0.**

ORDERED: There being no further business, the regular meeting of the City Council is herewith adjourned at 9:35 PM.